IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12463 of 2001
with
SPECIAL CIVIL APPLICATION No 12724 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ARODA KISHANLAL HARBANSLAL

Versus

COLLECTOR OF SABARKANTHA

Appearance:

1. Special Civil Application No. 12463 of 2001
MR FB BRAHMBHATT for Petitioner No. 1
MR KAMAL TRIVEDI, Additional Advocate General with
MR AD OZA GP with MR AY KOGJI, AGP for Respondents No. 1-3

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 07/03/2002

ORAL JUDGEMENT

In both the petitions, similar question of law arises and therefore, I intend to dispose of both the petitions by this common order. Rule. Mr. A.Y. Kogje, learned AGP waives service of Rule on behalf of State Authorities. Heard Mr. Brahambhatt, learned advocate

for the petitioners and Mr. Kamal Trivedi, learned Additional Advocate General for the respondent Authorities. Mr. Brahambhatt seeks permission to delete respondent no. 4 from the petition. Permission granted.

2. During the hearing, Mr. Brahambhatt has taken me through the petition and documents attached to the same namely, the electricity bill issued by the Electricity Board and the various rent receipts issued by Bayad Gram Panchayat in favour of the petitioners to show that the Panchayat has received rents for using the land in question and the decree passed by the trial Court namely the Court of learned Civil Judge (JD), Modasa in Civil Suit filed by Thakorbhai Jasbhai Patel, father of petitioner no. 6 against Bayad Gram Panchayat. In these petitions, the petitioners have prayed for seeking direction that the respondent authority may not demolish the construction of shops of the petitioners situated near Juna Bus Stop, Near Limda, Bayad as according to the petitioners the same are legal and valid and restrained the respondents permanently from demolishing the constructions without issuing notice to them and by way of interim relief, the petitioners have sought for relief that during the pendency of the petition, respondents be restrained from demolishing the construction of the petitioners.

3. An affidavit-in-reply is filed by Shri A.A. Patel, Mamlatdar, Bayad, the respondent no. 3 herein explaining the stand of the respondents. However, in para 10 of the affidavit, it is the case of the respondent that the petitioners have approached this court merely on apprehension and if and when the circumstances so required to deal with the petitioner's alleged property referred to in the petition, the same will be done by issuing a notice followed by the compliance of the principles of natural justice and the respondent has prayed for dismissal of the petition.

4. Mr. Kamal Trivedi, learned Additional Advocate General for the respondents has submitted that the stand of the Government is very clear that the Government is required to follow and act as per the guidelines and the circulars, which were issued from time to time and it is contended that the petitioners had approached this Court merely on apprehension and this court is not required to entertain the petition at this stage.

5. Considering the submissions and without expressing anything on the contentions raised before me in this proceedings, this court is of the view that in

view of the stand taken by the respondent that the petitioners have approached this court merely on apprehension that their properties are likely to be demolished and further that as stated by Mr. Kamal Trivedi, learned Additional Advocate General that before taking any action, the authority will follow due process of law, this Court is of the view that at this stage, this court is not required to entertain these petitions and accordingly, both the petitions are disposed of. Notice in each petition is discharged. However, there shall be no order as to costs.

(D.K.Trivedi,J.)

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